CONSTITUTIONAL LAW—LIBERTY OF CONTRACT—SALES OF MERCHANDISE IN BULK—NOTICE TO CREDITORS.—SQUIERS v. TELLIER, 69 N. E. 312 (MASS.).—A statute providing that a sale of merchandise in bulk, other than in the ordinary course of business, is void unless seller and purchaser make an inventory and the latter notify creditors of the former of the sale and its condition. *Held,* not unconstitutional as infringing on liberty of contract.

Similar statutes have recently been held constitutional in many of the States. *Wills v. Yates,* 12 S. W. 233; *Neas v. Borches,* 71 S. W. 50; *McDaniels v. Shoe Co.,* 60 L. R. A. 947. While the principle of the police power cannot render good legislation which without reason or justice deprives one of liberty of contract; *Chicago v. Netcher,* 55 N. E. 707; *Young v. Comm.,* 45 S. E. 327, it has nevertheless been extended broadly, *The Slaughterhouse Cases,* 16 Wall. 36, and its limits are hard to define. It is evident that statutes such as the one in question are aimed at a particularly common kind of fraud, and are not arbitrary legislation, certainly not class legislation, *Comm. v. Danyiger,* 176 Mass. 290; and come clearly under the police power as it is now construed. See IX *Virginia Law Register,* 682.

CRIMINAL LAW—NEW TRIAL—NEWLY DISCOVERED EVIDENCE.—STATE v. NELSON, 97 N. W. 652 (MINN.).—*Held,* that new trials should be granted in criminal cases on the ground of newly discovered evidence only where it is reasonably clear that the new evidence would be likely to change the result. Lewis, J., *dissenting.*

Some courts distinguish between civil and criminal cases in regard to granting new trials; though as a general rule the practice is the same in both. *Eldridge v. Minn. & St. Louis R. R. Co.,* 32 Minn. 252; *Grayson v. Commonwealth,* 6 Grat. 712. Though there is much conflict in the cases the principal case seems to be supported by the weight of authority. *Parker v. Hardy,* 24 Pick. 246; *Moore v. State,* 96 Tenn. 209; *Eberhart v. State,* 47 Ga. 598. The rulings in many cases recklessly granting new trials on technicalities, etc., have done much to increase the delay of litigation and to encourage defiant criminality. See the dissenting opinions of *Whitfield, J.,* in *Lipscomb v. State,* 75 Minn. 559, and of *Haight, J., in People v. Koerner,* 154 N. Y. 355. The dissenting judge in the principal case contends that in criminal cases motion for a new trial should not be denied where there is a possibility that the new evidence might affect the verdict. This view is supported by *Green v. State,* 17 Fla. 669; *People v. Williams,* 18 Cal. 187; *Dennis v. State,* 103 Lud. 142.

DEATH—PRESUMPTION—TITLE—SPECIFIC PERFORMANCE.—MCNULTY v. MITCHELL, 84 N. Y. SUPP. 89.—The purchaser of property at a partition sale refused to take title on the ground that there was no evidence of the death of one to whom or to whose issue if living, the entire property would belong. This person forty-three years ago was unmarried and has been unheard of since that time. *Held,* that the purchaser should be compelled to take the title.

The law does not recognize the impossibility of one living in 1034 to be still living in 1827. *Best, Evidence,* Sec. 408; *Duke of Cumberland v. Graves,* 9 Barb. 608. The presumption of death is prima facie merely and should absentee return, the purchaser's title would be defeated. *Young v. Heffner,* 36 Ohio St. 237. In some States a century must elapse before death will be

presumed. *Burney v. Ball,* 24 Ga. 505; *Owens v. Mitchell,* 5 Mart. (La.) 668. Although it is a settled rule of law that a purchaser will not be compelled to take a doubtful title there is some conflict as to what degree of doubt will relieve the purchaser. *Best, Ev.,* p. 502. If the uncertainty of the title affects its marketable value, specific performance will not be decreed. *Vreeland v. Blauvelt,* 23 N. J. Eq. 485; 3 *Pars., Cont.* (6th ed.), 380. In some cases the test is whether the doubt is a reasonable one. *Fleming v. Burnham,* 100 N. Y. 1; *Dingley v. Bon,* 130 N. Y. 614. The principal case is supported by *Ferry v. Sampson,* 112 N. Y. 418, but this case is considerably limited by *Vought v. Williams,* 120 N. Y. 260.

EQUITY—ADEQUATE LEGAL REMEDY—JURISDICTION OF FEDERAL COURTS.—CABLE V. INSURANCE CO., 24 SUP. CT. 74.—An action was instituted in a State court to recover on a policy of life insurance. The company filed a bill in equity, in federal jurisdiction, asking cancellation of the policy on the ground of fraud, alleging an inadequate legal remedy because of the administration in the State courts of laws unduly adverse to insurance companies and because a removal to the federal courts of the action brought against them would, under a State statute, subject them to a revocation of their license. *Held,* that the inadequacy of legal remedy alleged was not sufficient to warrant the federal courts of equity in assuming jurisdiction. Harlan and White, JJ., *dissenting.*

Although the company, in removing the original suit to the federal courts, might suffer a forfeiture of their license, the court reasoned that, as the contingency was one of the complainant's own creation, they could not avail themselves of it as a foundation for equitable relief. There is a well defined tendency, however, to relax the strictness of the doctrine followed. *Assur. Co. v. Ry. Co.,* 20 Law F. 422; *Smyth v. Ames,* 169 U. S. 466; *Sullivan v. Railroad Co.,* 94 U. S. 806; *Bank v. Stone,* 88 Fed. 383, holding that equity can be refused only when the relief at law is as practical and efficient to the ends of justice and its prompt administration as the remedy in equity. That the company would suffer irreparable injury by a forfeiture of its license is incontrovertible. It is true that it might adopt the alternative of defending the original suit, but at the expense of renouncing an equitable basis of relief. Perhaps the doctrine most consistent with the principles of equity is that supported in the minority opinion.

EXCHANGES—PROPERTY RIGHT IN QUOTATIONS—PROTECTION IN EQUITY.—CHRISTIE GRAIN & STOCK CO. V. CHICAGO BOARD OF TRADE, 125 FED. 161 (C. C. A.).—An Illinois statute makes it a crime for any person to keep a "bucket shop" or any place wherein is permitted the buying or selling of stocks or produce without the intention of actual delivery, and provides that any person or corporation who shall communicate quotations with a view to such transactions shall be considered an accomplice. *Held,* that, although the rules of the board of trade forbid dealing in futures, where the evidence shows that 85 per cent. of its transactions were in actual violation of these rules and of the statute, equity will not protect the property right of the board of trade in its quotations.

It is well established that a stock exchange has a qualified property right in its quotations. *Marine, etc., Ex. v. W. U. Tel. Co.,* 22 Fed. 23; *Com. Tel. Co. v. Smith,* 47 Hun. 494; *Live Stock Com. Co. v. Live Stock Ex.,* 143 Ill.